

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

LINDSEY LEMKE, KYLIE CHESTER,
AMANDA SMITH, JANE C1 DOE, JANE C2
DOE, JANE C3 DOE, JANE C4 DOE, JANE
C5 DOE, JANE C6 DOE, JANE C7 DOE,
JANE C8 DOE, JANE C9 DOE, JANE C10
DOE, JANE C11 DOE by next friend JANE
C12 DOE, JANE C13 DOE, JANE C14 DOE,
JANE C15 DOE, JANE C16 DOE, JANE C17
DOE, JANE C18 DOE by next friend JANE
C19 DOE, JANE C20 DOE, JANE C21 DOE,
JANE C22 DOE, JANE C23 DOE by next
friend JANE C24 DOE, JANE C25 DOE,
JANE C26 DOE, JANE C27 DOE, JANE C29
DOE, JANE C30 DOE, JANE C31 DOE,
JANE C32 DOE, JANE C33 DOE, JANE C34
DOE, JANE C35 DOE, JANE C36 DOE, and
JANE C37 DOE by next friend JANE C38
DOE,

Plaintiffs,

v.

USA GYMNASTICS, INC.; TWISTARS
USA, INC. d/b/a GEDDERT'S TWISTARS
GYMNASTICS CLUB USA; JOHN
GEDDERT; and the UNITED STATES
OLYMPIC COMMITTEE,

Defendants.

James White (P56946)
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Brittany Nichols (P81900)
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Case No.

Hon.

**USA GYMNASTICS, INC.'S NOTICE OF
REMOVAL**

(Removed from the Circuit Court for the
County of Ingham, State of Michigan
Case No. 18-610-NO)

D. Andrew Portinga (P55804)
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Pursuant to 28 U.S.C. §§ 1331, 1367, 1441 and 1446, and for the sole purpose of removing this matter to the United States District Court for the Western District of Michigan, Defendant USA Gymnastics, Inc. (“USAG”) states:

STATE COURT ACTION

1. On or about September 7, 2018, Lindsey Lemke, Kylie Chester, Amanda Smith, Jane C1 Doe, Jane C2 Doe, Jane C3 Doe, Jane C4 Doe, Jane C5 Doe, Jane C6 Doe, Jane C7 Doe, Jane C8 Doe, Jane C9 Doe, Jane C10 Doe, Jane C11 Doe by next friend Jane C12 Doe, Jane C13 Doe, Jane C14 Doe, Jane C15 Doe, Jane C16 Doe, Jane C17 Doe, Jane C18 Doe by next friend Jane C19 Doe, Jane C20 Doe, Jane C21 Doe, Jane C22 Doe, Jane C23 Doe by next friend Jane C24 Doe, Jane C25 Doe, Jane C26 Doe, Jane C27 Doe, Jane C29 Doe, Jane C30 Doe, Jane C31 Doe, Jane C32 Doe, Jane C33 Doe, Jane C34 Doe, Jane C35 Doe, Jane C36 Doe, and Jane C37 Doe by next friend Jane C38 Doe, (“Plaintiffs”) filed the above-captioned lawsuit in the Circuit Court for the County of Ingham, Michigan (Case No. 18-610-NO) (the “State Court Action”). A true and correct copy of the Complaint comprising the State Court Action is attached hereto as Exhibit A.

2. Defendant has not yet been served with the Summons and Complaint in the State Court Action. USAG, however, waives service, effective December 5, 2018.

PENDING FEDERAL COURT ACTION

3. Plaintiffs have filed a federal action against USAG based on claims arising from the same case or controversy in *Lemke, et al. v. Michigan State University, et al.*, Member Case No. 1:18-cv-01052 (W.D. Mich.). The State Court Action seeks damages for the same alleged injuries as the federal court action. The State Court Action is duplicative of the pending federal case.

JURISDICTION AND VENUE

4. Removal is appropriate under 28 U.S.C. § 1441 because this Court would have original jurisdiction over this action under §§ 1331 and 1367. The claims in this case form part of the same case or controversy as those filed in the pending federal action filed by the same plaintiffs, captioned, *Lemke, et al. v. Michigan State University, et al.*, Member Case No. 1:18-cv-01052. In the pending federal action, plaintiffs assert subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1367. *Id.* at 1:18-cv-01052 PageID.15-16. This, the Court has original jurisdiction over the pending federal action. Because this State Court Action involves claims “that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution,” this Court has supplemental jurisdiction over this action under 28 U.S.C. § 1367.

5. Additionally, this Court has original jurisdiction over this case under 36 U.S.C. § 220505(b)(9). Plaintiffs have asserted a claim against the United States Olympic Committee, and, under 36 U.S.C. § 220505(b)(9), a federal “district court shall have original jurisdiction over the action [against USOC] without regard to the amount in controversy or citizenship of the parties involved.”

6. Venue is proper in this Court under 28 U.S.C. § 1441(a) because the District embraces the place where the State Court Action is pending.

PROCEDURAL REQUIREMENTS

7. Defendant has not yet been served with the State Court Action Summons and Complaint. USAG, however, waives service, effective December 5, 2018.

8. Less than thirty (30) days have elapsed since this action became removable to this Court. Removal of this action is, therefore, timely under 28 U.S.C. § 1446(b).

9. Exhibit A contains a copy of the State Court Action Complaint.

10. As required by 28 U.S.C. § 1446(a), this Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

11. Pursuant to 28 U.S.C. § 1446(d), the undersigned counsel certifies that, promptly after filing this Notice of Removal, copies of this Notice of Removal will be served on Plaintiffs and filed with the 30th Circuit Court for the County of Ingham.

12. All named Defendants who have been properly joined and served consent to removal. Namely, counsel for the United States Olympic Committee, Twistars USA, Inc., and John Geddert stated that they consent to removal. Also, in a telephone conversation with the undersigned, Lawrence Nassar stated that he consents to removal.

MILLER JOHNSON
Attorneys for Defendant USA Gymnastics, Inc.

Dated: December 5, 2018

By /s/ D. Andrew Portinga

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